2: Hickinbotham G-4, 5 (ca. 1931-ca. 1957)
1958 MM1 Aden MM1

speaking teachers of our own language we shall make no progress. One of my sons, who is in Edinburgh, has just failed an examination and of all things he has failed in Arabic. It is a disgrace and for that disgrace we have India to thank. We are not part of that country geographically and we are not the same people and we do not speak the same language."

He paused again, and then with an abrupt change of subject went on:

"We have no newspapers, but unfortunately we have got lawyers. Newspapers, properly managed, can be useful and let the Government know how the people think and make the people think in the right way, but they can be dangerous unless they are in the hands of experienced and honest men, and we have none. Where is the experience to come from? Maybe it is as well that we have no newspapers, but the lawyers, well, that was a serious mistake, they should never have been allowed to practise until the people were better educated; they are a plague, they are worse than locusts, they make mischief and they encourage people to go to courts. At the present time they are too busy making money to think of other things, but they will once they have grown fat and then they will talk politics to the people and this before the people are properly awake. It will be dangerous and Government must take the necessary measures."

He had an irritating habit, as I was to realise later, of saying that Government must take "the necessary measures" and not saying what form the "measures" should take. So often in the future was he to diagnose the distemper, but unfortunately not very often was he able to suggest the remedy. His reference to the lawyers was to be repeated from time to time through the years that I knew him. They had been allowed to practise in the courts in Aden in 1928; before that they were prohibited from appearing in court, although there had been no prohibition on their acting as legal advisers out of court. At that time the Bar was approximately one hundred per cent. Indian and was to remain so for nearly twenty years, and it is probably this monopoly of the Bar by Indians which accounted to some extent for Mackawwi's dislike of lawyers, but it was not the

Aden

693 whole reason, because there was a great deal in what he had said. In the early days certainly, there was a tendency for some of the less scrupulous legal practitioners not to attempt too seriously to dissuade their clients from going to court when they had no case.

000 Mackawwi now turned to the Protectorate, and said:

"You have not seen the Protectorate yet?"

"No," I replied.

"They are ignorant and poor people and something should be done for them," he said.

"What should be done?" I inquired. It was a question I was often to ask him and sometimes he did give me an answer but more often than not the reply came,

"I do not know, but something should be done, something should be done before it is too late."

At this point the bell rang from the Resident's room and Mackawwi, unfolding his legs—he had been sitting with one thrown over the other—rose to his feet and with a particularly charming smile shook hands, and drifted through the door and away as if carried by the light breeze that blew that morning from the sea.

648 668 From the time that Aden was first acquired by us it formed part of the Bombay Presidency, but by 1932 political developments in India had reached a stage which made a break with Bombay inevitable. The Resident had been consulted, and it had been made clear to the authorities in India and London that the Arabs, who formed the majority of the population of the Settlement, would react most unfavourably to any suggestion that Aden should continue to be under the jurisdiction of the Bombay Government once provincial autonomy had become a fact in India. We took the view in Aden at that time that it would not be practicable for Aden to continue under control which had passed into the hands of the Indians themselves. Aden was not an Indian Colony, and over the years the Arabs had learnt one thing very clearly and that was not to expect generous treatment from India.

648 563 668 To understand the attitude of the Arabs to other races it must be realised that they consider themselves and always have,

3:Gt. Brit., Colonial Office G-3 (1938) 1940 MM1 Aden MM1

691 107 applications for maintenance were made in the Courts of the Magistrates. In 47 cases orders for maintenance were granted.

The offences in respect of which persons were tried in the Supreme Court were—

(1) Culpable homicide not amounting to murder,
(2) Forgery of a cheque and cheating,
(3) Murder,
(4) House trespass and outraging the modesty of a woman,
(5) Forging a Court document.

695 58 criminal appeals were lodged and 62 proceedings in revision taken in the Supreme Court. In 11 appeals the cases were remanded for retrial, and 23 appeals were dismissed. In 14 cases appeals were allowed and in 6 cases sentences were reduced. 51 applications for revision were dismissed. In one case sentence was enhanced, in 2 cases sentences were reduced, and in 5 cases convictions were set aside and 3 cases were ordered to be retried.

693 There are 6 lawyers practising in the Courts of the Colony, three being Hindus, two Mohamedans and one a Parsee. Sanads are granted by the Supreme Court under rules made under the Supreme Court Ordinance. Two of these lawyers are Barristers-at-Law and the other four have Indian legal qualifications.

Police

625 The police under the control of a Commissioner of Police and a Deputy Commissioners of Police consist of two forces, an unarmed and an armed force. The strength of the former is 9 Inspectors, 4 Jamadars and 306 men. The strength of the armed force is 4 Inspectors, 1 Jamadar and 200 men. Details of the strength are as follows:—

Unarmed Police

	Inspectors.	*Jamadars.*	*Head Constables and Constables.*
Aden Land and Sheikh Othman Foot Police.	5	2	225
Perim Land Police	—	—	12
Sheikh Othman Mounted Police	—	1	12
Aden Harbour Police ...	4	1	57
Total	9	4	306

Armed Police

At Aden	2	1	138
At Perim	1	—	32
At Kamaran	1	—	30
Total	4	1	200

4:Gt. Brit., Colonial Office G-3 (1937) 1939 MM1 Aden MM1

691

Offence.	*Number of cases.*
Voluntarily causing hurt	163
Assault	159
Other offences against the person	32
Theft	57
Other offences against property	55
Insult	365
Affray	183
Other offences punishable under the Indian Penal Code ...	83
Cruelty to animals	29
Offences punishable under the Police Ordinance	390
Offences punishable under the Indian Motor Vehicles Act...	478
Offences punishable under the Aden Settlement Regulation	161
Offences punishable under other enactments	30

681 The various punishments imposed during the year in respect of the convictions in the Courts of the Magistrates were as follows:—

Imprisonment with or without fine	133
Whipping	17
Fine only	813
Bound over or otherwise dealt with	13

691 Eighty-four applications for maintenance were made in the Courts of the Magistrates. Orders for maintenance were granted in 36 cases.

691 692 The offences in respect of which persons were tried in the Supreme Court were:—

(1) Theft with 11 previous convictions;

(2) misappropriation of a postal letter while in course of transmission by post; criminal breach of trust as a public servant in respect of the said letter; and dishonestly using as genuine a receipt in respect of the said letter, knowing it to be forged.

Nine criminal appeals were lodged and 38 proceedings in revision taken in the Supreme Court. Twenty-six of such proceedings arose out of applications and twelve were taken by the Court *suo motu*. In one appeal the case was remanded for retrial, and eight appeals were dismissed. Twenty applications for revision were dismissed. As a result of one such application, sentence was enhanced; as the result of another, sentence was reduced; and in the case of four, convictions were set aside. In revisional proceedings taken by the Court *suo motu*, sentence was enhanced in six cases and varied in one case, no action being taken in the remaining cases.

693 There are five lawyers practising in the Courts of the Colony, three being Hindus, one a Mohammedan, and one a Parsee. Sanads are granted by the Supreme Court under rules made under the Supreme Courts Ordinance. Two of these lawyers are barristers-at-law and the other three have Indian legal qualifications.

5:Gt. Brit., Colonial Office G-3 (1947) 1949 MM1 Aden MM1

(*a*) as of right, from any final judgment of the High Court, when the value of the subject-matter in dispute in such second appeal is Rs. 10,000 or upwards, provided that, in case the judgment appealed from affirms the decision of the Supreme Court, the second appeal involves some substantial question of law; and

(*b*) at the discretion of the High Court, from any other judgment, whether final or interlocutory, if in the opinion of the High Court the question involved in the second appeal is one of great general or public importance.

The Supreme Court is presided over by a Judge of the Supreme Court. It is the only Court of Appeal in the Colony, and also has powers of revision.

The other Civil Court in the Colony is the Court of Small Causes, presided over by the Registrar of the Supreme Court, who is *ex officio* the Judge of the Court of Small Causes and is also the Chief Magistrate. Provision is also made for the appointment of an additional Judge of the Court of Small Causes. In practice the Chief Magistrate and one of the other magistrates sit separately as Judge or additional Judge of the Court of Small Causes.

The Court of Small Causes has jurisdiction, save as regards certain suits excepted from its cognizance, if the value of the subject-matter does not exceed Rs. 500. An appeal lies to the Supreme Court from every decree passed by the Court of Small Causes provided that the value of the claim exceeds Rs. 50.

Subject to the provisions of any statute in force in England expressly applied to the Colony, or which has been extended thereto by Order in Council, and of any enactment for the time being in force in the Colony, and so far as the said statute or enactment does not extend or apply, the civil courts in the Colony exercise their jurisdiction in conformity with usage, and in the absence of usage in conformity with the substance of the common law, the doctrines of equity and statutes of general application in force in England on 1st April, 1937. The common law, doctrines of equity and statutes of general application are applied so far only as the circumstances of the Colony and its inhabitants permit and subject to such qualifications as local circumstances may render necessary. In particular, the personal law of Mohammedans, Hindus, Jews and Parsees is applied, save in so far as that law has been expressly superseded by legislation, in matters of marriage, divorce, guardianship, inheritance and certain other matters.

On both the civil and criminal sides the procedure of the Courts is governed by ordinances which are based on Indian models.

The Supreme Court is the only criminal court having power to pass a sentence of imprisonment for a term exceeding two years or fine exceeding Rs. 1,000. All criminal trials in the Supreme Court are by jury. In the case of Europeans and Americans the majority of the jurors must be Europeans or Americans.

There are three magistrates, including the Chief Magistrate, who

5:Gt. Brit., Colonial Office G-3 (1947) 1949 MM1 Aden MM1

693 individually exercise the powers of a magistrate of the first class as provided by the Criminal Courts Ordinance, 1937, and regular sittings are held at Crater, Tawahi and Sheikh Othman.

692 695 An appeal lies from the Magistrate's Court to the Supreme Court in all criminal cases in which a sentence of imprisonment exceeding one month or fine exceeding Rs. 50 has been passed, and the Supreme Court has also powers of revision.

No sentence of death can be passed on a pregnant woman or a person under the age of 16 years.

A youthful offender may be dealt with by placing him on probation, or by discharging him after due admonition, or by delivering him to his parent, guardian or relative, who has executed a bond for his good behaviour, or by fine, or by whipping, or by ordering his detention.

The Courts performed their usual functions throughout the year. On the criminal side there was an increase of cases both in the Supreme Court and in the Magistrates' Courts. In the Lower Courts there was a very considerable increase in petty offences such as infringements of the Port Rules and minor infringements of the Traffic Ordinance and Rules.

693 694 Although there were eight professional pleaders in the Colony, in the great majority of civil cases even in the Supreme Court one or both parties appeared in person without a pleader. This fact and the Indian procedure as followed in the Colony whereby every step in pleadings involves an appearance before the Judge causes a great deal of delay. On the criminal side in the Magistrates' Courts similar delay is caused by the fact that a preliminary enquiry has to be made in every case punishable with imprisonment for a term exceeding six months before the accused can be charged and required to plead. This requirement exists irrespective of the facts of any particular case and even though the case is one that may be tried summarily without recording the evidence.

Owing to the increase of work, Government agreed to the appointment of a second magistrate of the first class on a contractual basis.

691 There is a considerable amount of civil litigation in the Colony. During the year 1947, 304 civil suits were filed in the Supreme Court and 328 civil suits were finally decided. Ten applications for civil revision were filed and decided. Twenty-three civil appeals were lodged in the Supreme Court which disposed of all. The miscellaneous proceedings in the Supreme Court included 30 applications concerning guardianship matters, 10 for succession certificates, 58 for heirship certificates, two for letters of administration, one for probate; and excluding execution proceedings and interlocutory applications, there were 22 other applications, making in all 123. The corresponding disposals were 34, 10, 63, 1, 1, and 23 respectively, making in all 132.

Twenty-six estates were in charge of the Supreme Court.

586 All six cases for dissolution of Mohammedan marriages filed during the year were disposed of.

674 Eleven criminal cases were committed to the Supreme Court during 1947 for trial, out of which nine were disposed of during the year and the remaining two were heard and decided in January, 1948.

5:Gt. Brit., Colonial Office G-3 (1947) 1949 MM1 Aden MM1

681 The various punishments imposed during the year in respect of the convictions in the Magistrates' Courts were as follows:

Imprisonment with or without fine	928
Whipping	23
Fine only	5,513

691 Four hundred and fifty-seven applications for maintenance were made in the magistrates' Courts. In 306 cases orders for maintenance were granted, and in the remaining cases maintenance was disallowed.

692 The magistrates are required to submit monthly returns of the criminal cases decided in their courts on the same lines as in East Africa. This system has kept the Supreme Court in close touch with the current work of the Magistrates' Courts and enables due supervision to be effected. Magistrates are also required to submit to the Supreme Court for inspection the record of any case in which a sentence of corporal punishment is awarded.

REGISTRATION

647 The Registration Department is in charge of the Registrar of Documents, who is also Registrar-General of Births, Deaths and Marriages for the Colony of Aden.

693 During the year under review, His Honour the Judge of the Supreme Court was in charge of the offices referred to above.

Registration of Testamentary and Non-Testamentary Documents

The total number of documents presented during 1947 was 443. Thirty applications for copies, searches and inspections were received, and disposed of. The number of visits paid by the Sub-Registrar to private residences was 39.

Registration of Firms

Nineteen applications for registration of firms under the Partnership Ordinance, 1939, were received.

Bills of Exchange

The total number of Bills of Exchange noted and protested under the Bills of Exchange Ordinance, 1941, was 30.

Income

651 The total income from registration documents and firms and notarial charges was Rs. 7,984.

POLICE

674 Serious crime remained about the same as in the previous year. The acid-throwing attack in August, 1947, on the Matron of the Civil Hospital,

6:Gt. Brit., Colonial Office G-3 (1948) 1950 MM1 Aden MM1

No sentence of death can be passed on a pregnant woman or a person under the age of sixteen years. 681

A youthful offender may be dealt with:

(1) by placing him on probation, or
(2) by discharging him after due admonition, or
(3) by delivering him to his parent, guardian, or relative, who has executed a bond for his good behaviour, or
(4) by fine, or
(5) by whipping, or
(6) by ordering his detention.

There are three Magistrates including the Chief Magistrate who individually exercise the powers of a Magistrate of the first class as provided by the Criminal Courts Ordinance 1937, and regular sittings are held at Crater, Tawahi and Sheikh Othman. 693 695 427

An appeal lies from the Magistrate's Court to the Supreme Court in all criminal cases in which a sentence of imprisonment exceeding one month or fine exceeding Rs. 50 has been passed and the Supreme Court has also powers of revision. 698 692

During the year Rent Tribunals were set up for the assessment of the standard rent of lettings. The Tribunals are not staffed by the Judicial Department but the Supreme Court can entertain an appeal from the decision of a Tribunal.

The Courts performed their usual functions throughout the year. On the criminal side there has been an increase of cases in the Magistrates' Courts.

In addition to His Honour the Judge of the Supreme Court the Judicial Staff consisted of Mr. Nunn, Chief Magistrate and Messrs. Mansoor and Kazi, Magistrates of the first class. During the year Mr. Nunn was on leave from 2nd June, 1948, to 4th October, 1948, during which period Mr. Mansoor acted as Chief Magistrate and Judge of the Small Causes Court and Mr. Kazi continued to act as Additional Judge of the Small Causes Court.

Although there were seven professional pleaders in the Colony, in the great majority of civil cases even in the Supreme Court one or both parties appeared in person without a pleader. This fact and the Indian procedure as followed in the Colony whereby every step in pleadings involves an appearance before the Judge causes a great deal of delay which could be obviated by procedural reform. On the criminal side in the Magistrates' Courts similar delay is caused by the fact that a preliminary enquiry has to be made in every case punishable with imprisonment for a term exceeding six months before the accused can be charged and required to plead. This requirement exists irrespective of the facts of any particular case and even though the case is one that may be tried summarily without recording the evidence.

There is a considerable amount of civil litigation in the Colony. During 1948, 459 civil suits were filed in the Supreme Court and 326 civil suits were finally decided. Six applications for civil revision were filed and all were decided. Twenty-eight civil appeals were lodged in 691

691

Other offences punishable under the Indian Penal Code	104	92
Offences punishable under the Police Ordinance	326	378
Offences punishable under the Township Rules and Vagrants and Undesirables Ordinance	502	462
Offences punishable under other laws including Port Rules	6,080	5,749
Offences punishable under Cruelty to Animals Rules	25	10
TOTAL ..	12,858	12,896

681 Magistrates Courts imposed the following punishments on convicted persons :

	1949	1950
Imprisonment with or without fine	856	1,064
Whipping	24	15
Fine only	6,499	6,190
Bound over for good behaviour	4	68
Applications for maintenance allowance ..	116	338
Orders granted	68	244

693 659 The Registration Department, under the Judge, maintains the usual register of births, marriages, and deaths, testamentary and other documents, firms, trade marks, patents and designs. The Sub-Registrar performs the duties of Notary Public, Registrar of Births and Deaths, Registrar of Parsi Marriages, Registrar of Firms, Trade Marks, Patents and Designs.

POLICE

625 The Police Force numbers 777, of which 331 are Armed Police who do not perform any civil police duties. The proportion of civil police to population is 1 to 226. The Civil Police include the Harbour Police, whose duties are chiefly concerned with the protection of shipping and cargo in the extremely busy harbour of Aden.

The force was under the command of the Commissioner throughout 1949 and 1950. The Civil Police perform normal police duties covering the protection of persons and property and the prevention and detection of crime in Aden Colony and in Aden harbour. The Criminal Investigation Department is responsible for the investigation of serious crime, special branch work, immigration, the issue of passports and the deportation of undesirables and vagrants. In addition the Police undertake the registration of motor vehicles, the issue of driving licences, the control and issue of permits to public service vehicles and the licensing of arms.